

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIA TERAN, et ano.,

Plaintiffs,

-against-

ZIMMER, INC., et al.,

Defendants.
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ORDER

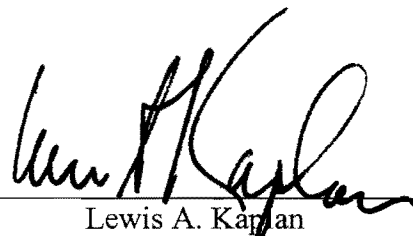
LEWIS A. KAPLAN, *District Judge*.

On November 2, 2011, this Court ordered plaintiffs to show cause, on or before November 16, 2011, why this action should not be transferred to the District of Arizona, the Northern District of Ohio, or the Northern District of Indiana pursuant to 28 U.S.C. § 1404 or 1406. Plaintiffs never filed papers in response to the order to show cause.

Venue is improper in this district and, although improper venue is an affirmative defense that may be waived, defendants have not waived it. Accordingly, the action is transferred to the United States District Court for the Northern District of Indiana where it could have been brought pursuant to 28 U.S.C. § 1406. Defendants' subsequent motion to dismiss or transfer [DI 8] is denied as moot.

SO ORDERED.

Dated: December 15, 2011



Lewis A. Kaplan
United States District Judge

